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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/138,807	08/21/1998	RAMANATHAN RAMANATHAN	INTL-0083-US	4545

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ART UNIT	PAPER NUMBER
2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Advisory Action		09/138,807	RAMANATHAN, RAMANATHAN
		Examiner	Art Unit
		Jason P Salce	2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

    (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: *see continuation sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: *5-9 and 19-23*.

    Claim(s) rejected: *2-4 and 10-18*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

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Continuation of Item ↓ from Advisory

Applicant argues that Kenner and Kapoor both fail to disclose an on-going

tracking from the point in time when a first marker is inserted. The examiner notes a

"round-trip elapsed time" calculation of a test packet at Column 27, Lines 58-59. Even

though the applicant states that Kenner does not describe the details of this calculation,

a round-trip elapsed time can only be calculated if a packet is sent to a destination and

returned to the same destination. Such a calculation cannot be done unless the system

knows which packet is the "test packet" and is therefore marked as such (using a

"packet id", commonly known as a PID (packet identification) in the art).

Applicant also argues that Kapoor fails to disclose an on going tracking of a video

transmission from the point in time when a first marker is transmitted. The examiner

notes that Kenner is used to teach this limitation (see arguments above) and that

Kapoor is used to teach an on-going count of bits. The examiner also notes that the

suggested amendment has removed this limitation, and therefore Kapoor would not be

used.

Applicant also argues that Kapoor only teaches a counter that counts data

packets post transmission, after being received at a second node. The examiner notes

that every node contains a congestion controller (for example, there are two satellites

(20 and 21), where each satellite contains a congestion controller). Each congestion

controller detects when congestion is eminent and then sets a bit to any packet that

goes into that node's congestion controller (satellite 20 for example), then when another

node (satellite 21 for example) detects this bit, a counter is incremented. Therefore,
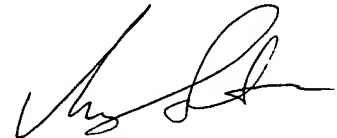
Kapoor discloses a counter that tracks a transmission (a packet marked for congestion

at satellite 20 and sent to satellite 21) from the point where the first marker is inserted

(satellite 20).

Applicant also argues that in order to reject a claim on the basis of inherency, the

missing descriptive matter necessarily must be present in the reference. The examiner

notes that this has been met by the passages cited in the previous Office Action (see

Column 2, Lines 43-67 and a content provider at Column 1, Lines 58-61). Further note

Column 8, Lines 14-16 for the receiver being a STB that receives TV signals and

Column 21, Lines 19-25 for running a browser on this STB, therefore web content would

have to be sent to the set top box (see Column 21, Lines 25-28) in order to even use

the browser to view web content (see Column 22, Lines 63-65).

Applicant also has challenged the examiner's use of Official Notice for providing

a log-in server, reporting a transmission to said log-in server and allowing a third party

to access said log-in server to receive transmission reporting. As stated in the previous

Office Action, Kenner discloses reporting a transmission, as well as Kapoor (see

rejection of claim 11 in the previous Office Action). Kenner and Kapoor fail to teach a

login server, reporting a transmission to said login server and allowing a third party to

access said login server to receive transmission reporting. Hullinger (U.S. Patent No.

6,295,092) discloses such a server in a system that provides a report of transmissions

made by the system (see Figure 1 for a user interface machine 24 for reviewing

transmission data processed by other components in the system (Figure 1), also note

Column 11, Lines 6-45 for the details of such charts and graphs made available to the

user). Also note that that the user interface machine contains a Windows operating

system, which inherently allows a user (Administrator, the computer owner, or any third

party) to log in and out of the machine. The examiner has provided a section of the

Microsoft Windows Operating System book (see pages 16-17 and 77-81 in Chapter 2

for providing this feature, as well as tracking network activity for future reporting to a

user). The motivation to do so has been stated in the previous Office Action as

enabling a cable broadcast system to monitor network activity at off-peak hours (which

is used to determine the most effective programming to broadcast at that hour).

VIVEK SRIVASTAVA
PRIMARY EXAMINER